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13 **UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA**

15 SAVE OUR FOREST ASSOCIATION,
16 INC.,

17 Plaintiff,

18 v.

19 UNITED STATES FOREST SERVICE,
20 *et al.*,

21 Defendants.

22 Case No. 5:24-cv-01336-JGB-DTB

23 **DEFENDANTS' REPLY TO
24 PROPOSED-INTERVENOR'S
"OBJECTIONS" TO THE
PARTIES' STIPULATION FOR
PROPOSED BRIEFNG SCHEDULE**

25 Defendants, by and through undersigned counsel of record, hereby reply to
26 Proposed-Intervenor's July 15, 2025 "Objections to Plaitniff's [sic] 'Stipulation for
27 Proposed Briefing Schedule' and Withdrawal of Consent to Continue 8/4/25
28 Hearing on the Nation's Motion to Intervene," ECF No. 63, as follows:

29 1. Proposed-Intervenor's Objections are based on several false premises.

30 Most fundamentally, Proposed-Intervenor falsely asserts that the Parties'

1 Stipulation for a briefing schedule “is aimed at moving the case closer to
2 adjudication of the merits.” ECF No. 63 at 3. The Stipulation does no such thing.
3 Under the Stipulation, the *earliest* that briefing on the merits (the Parties’ cross-
4 motions for summary judgment) would be complete is approximately March 5,
5 2026. *See* ECF No. 62 ¶¶ 8-11 (setting forth a proposed briefing schedule which is
6 tiered off the lodging of the Administrative Record on September 5, 2025 and
7 would end approximately March 5, 2026, if Plaintiff does not file any motion
8 challenging the content or sufficiency of the Administrative Record). In contrast,
9 under the Court’s current March 6, 2025 “Civil Trial Scheduling Order,” the
10 Parties’ cross-motions for summary judgment would have to be fully briefed *and*
11 *heard* by February 2, 2026. ECF No. 40 at 1 (“Dispositive Motion Hearing Cut
12 Off: 2/2/2026 at 9:00 AM”). Indeed, under the Court’s “Civil Trial Scheduling
13 Order,” the Parties could notice and file their cross-motions for summary judgment
14 today, much sooner than under the schedule proposed in the Stipulation.

15 2. Rather than trying to expedite a merits ruling as Proposed-Intervenor
16 incorrectly asserts, the sole purpose of the Parties’ Stipulation is to provide for an
17 orderly briefing schedule for a case challenging federal agency action under the
18 Administrative Procedure Act (“APA”), 5 U.S.C. § 706, which will be resolved on
19 dispositive cross-motions for summary judgment. The Court’s March 6, 2025
20 “Civil Trial Scheduling Order” provides a schedule for a typical, non-APA civil
21 case. Cases challenging federal agency action under the APA, however, are
22 different and typically do not include discovery, expert witnesses, motions in
23 limine, and trials. Instead, such APA cases are almost invariably resolved on
24

1 dispositive cross-motions for summary judgment based on the Court’s review of
2 the Administrative Record for the federal agency action. *See, e.g., Nw. Motorcycle*
3 *Ass’n v. U.S. Dep’t of Agric.*, 18 F.3d 1468, 1471-72 (9th Cir. 1994) (discussing
4 the standards of review under both the APA and Fed. R. Civ. P. 56). The Parties’
5 Stipulation sets forth the appropriate procedural steps for reaching that resolution
6 in this case, and on a schedule that is commensurate with the schedule that this
7 Court had already set in place for a trial, which will not be necessary.

8 3. Thus, the fundamental premise for Proposed-Intervenor’s Objections
9 and ostensible withdrawal of its “consent” to continue the August 4, 2025 hearing
10 date on the motion to intervene is erroneous. If anything, the Parties’ Stipulation
11 provides the Court with *more* time to consider Proposed-Intervenor’s motion to
12 intervene--and, if applicable, its motion to dismiss--before resolving this case on
13 the merits.

14 4. While Proposed-Intervenor complains that it was not included in the
15 Parties’ discussions concerning an appropriate schedule for resolving the APA
16 claims in this matter, Proposed-Intervenor has moved to specially intervene in this
17 matter “for the *sole* purpose of moving to dismiss the action based on [Federal
18 Rule of Civil Procedure] 19.” ECF No. 38 at 3 (emphasis added); *see also* ECF
19 No. 38-1 at 2 (proposed order that would grant intervention “for the limited
20 purpose of moving to dismiss”). Thus, Proposed-Intervenor has no interest in the
21 schedule for production of the Administrative Record or briefing this matter on
22 dispositive cross-motions for summary judgment. Proposed-Intervenor will not be
23 involved in any merits proceedings in this case, even if it is granted intervention.

1 5. If Proposed-Intervenor was truly concerned about this Court ruling on
2 the merits of this case before addressing Proposed-Intervenor's motions to
3 intervene and to dismiss, and about conserving the Parties' and the Court's
4 resources, it should have sought leave to vacate or stay the Court's Scheduling
5 Order when that order was entered in March. Proposed-Intervenor did not seek to
6 do so then, and its alleged concerns now about this case moving forward on the
7 merits ring hollow.

8 Proposed-Intervenor is not a party to this litigation, and its Objections to the
9 Parties' Stipulation are without basis in fact or law. The Court should grant the
10 Parties' "Stipulation for Proposed Briefing Schedule," ECF No. 62, as well as the
11 Parties' and Proposed-Intervenor's July 14, 2025 "Stipulation to Continue Hearing
12 Date on Motion to Intervene," ECF No. 60.¹

13
14 Submitted on July 17, 2025.

15 ADAM R.F. GUSTAFSON
16 Acting Assistant Attorney General
17 Environment and Natural Resources Division
18 United States Department of Justice

19 */s/ Andrew A. Smith*
20 ANDREW A. SMITH
21 Senior Trial Attorney
22 EMMA L. HAMILTON

23 ¹ In her email advising counsel for Proposed-Intervenor and Defendants that she
24 was not available to attend the rescheduled hearing on the motion to intervene on
August 4, 2025, counsel for Plaintiff proposed alternative hearing dates of August
18, August 25, September 8, September 15, September 22, and September 29.
Counsel for Proposed-Intervenor rejected *all* of the earlier (and later) dates,
advising that Proposed-Intervenor would only be available on September 15.

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1 *Attorneys for Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically send email notification to the attorneys of record.

/s/ Andrew A. Smith
Andrew A. Smith
U.S. Department of Justice